

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION

CIVIL NO. 2:09CV17
(2:08CR19)

LLOYD TEESATESKIE, JR.,)	
)	
Petitioner,)	
)	
Vs.)	<u>ORDER OF DISMISSAL</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

THIS MATTER is before the Court on the Petitioner's petition for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2241 and his request to stay the sentencing in his criminal case pending the Court's "jurisdictional" review, filed February 3, 2009.

On May 27, 2008, the Petitioner entered into a plea agreement with the Government wherein he agreed to waive indictment by a grand jury and to enter a plea of guilty to a bill of information charging him with violating 18 U.S.C. §§ 2241(c) and 1153. **See Bill of Information, filed May 27, 2008; Plea Agreement, filed May 27, 2008.** On June 3, 2008, the Petitioner appeared before the Magistrate Judge for a Rule 11 hearing, at

which time he declined to enter his plea.¹ Thereafter, the Petitioner and his new court-appointed attorney signed an amended plea agreement and the Petitioner entered his guilty plea before the Magistrate Judge on August 1, 2008. **See Amended Plea Agreement, filed July 28, 2008; Rule 11 Inquiry and Order of Acceptance of Plea, filed August 1, 2008.** The Petitioner has been in custody of the United States Marshal since his arrest on April 23, 2008, and is scheduled for sentencing on February 12, 2009.

In the course of his rambling 50-page petition, Petitioner sets forth a variety of allegations that, for the most part, challenges the constitutionality of the statute to which he pled guilty and the jurisdiction of this Court.

Where a petition for a writ of *habeas corpus* affirmatively shows upon its face that the petitioner is not entitled to the relief sought, “it is incumbent on the court to dismiss the petition, and to refrain from issuing the writ.”

***Slaughter v. Wright*, 135 F.2d 613, 615 (4th Cir. 1943); see also, 28**

U.S.C. § 2243. The Court notes that Petitioner has not sought the advice

¹ Petitioner’s first appointed attorney was allowed to withdraw and another attorney was appointed to represent the Petitioner. **See Motion to Withdraw by Attorney Tony Rollman, filed July 14, 2008; Order, filed July 16, 2008 (granting Rollman’s motion to withdraw); Appointment of Frank A. Abrams, filed July 18, 2008.**

of counsel and the petition is filed *pro se*. However, after carefully reviewing the petition, the Court concludes that it is totally void of merit on its face and the same should be, and is hereby, denied.

IT IS, THEREFORE, ORDERED that the Petitioner's petition for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2241 and his request to stay sentencing are hereby **DENIED**, and this action is hereby **DISMISSED WITH PREJUDICE** in its entirety.

The Clerk is directed to furnish a copy of Petitioner's petition and this Order to his court-appointed attorney in his criminal case, Frank Abrams.

Signed: February 3, 2009

A handwritten signature in black ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

